

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Clinton R. Vedders
Serial No.: 10/770,938
Filing Date: February 3, 2004
Group Art Unit: 2837
Confirmation No.: 1628
Examiner: Jeremy Austin Luks
Title: **ACCELERATED WEIGHT DROP FOR USE AS A
SEISMIC ENERGY SOURCE AND A METHOD OF
OPERATION THEREOF**

Mail Stop AF
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. Applicants respectfully request reconsideration of the rejected claims in the Application.

REMARKS

In the prosecution of the present Application, the PTO's rejections and assertions contain clear errors of law. Most notable of the legal errors present in the examination of the Application is a failure of the Final Office Action to establish a *prima facie* rejection of the claims. The Final Office Action rejected dependent Claims 43, 44, 48, and 49 under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 5,154,254 issued to Thompson et al. ("*Thompson*") in view of U.S. Patent No. 4,967,870 to Airhart ("*Airhart*"); and dependent Claims 61 and 62 under 35 U.S.C. §103(a) as allegedly being obvious over *Thompson* in view of *Airhart* and U.S. Patent Pub. No. 2003/0201101 to Kostrov ("*Kostrov*"). However, these rejections fail to meet the required *prima facie* standard for rejections for at least the reasons set forth below.

Section 103 Rejections Based on *Thompson/Airhart* References

Dependent Claim 43 is allowable at least because *Thompson* and *Airhart*, even when combined, fail to disclose, expressly or inherently, an impact isolator that "comprises a member having a slot positioned substantially in line with a line of impact of the striker, and wherein the surface comprises a pin operable to be slidably coupled within the slot." The Final Office Action agreed that *Thompson* failed to teach this element. The Final Office Action pointed to *Airhart* as teaching "an impact isolator (44, 200; Col. 6, Lines 54-59) comprises a member having a slot (see slot where member #202 passes through) positioned substantially in line with a line of impact of the striker (32)...and wherein the surface comprises a pin (202) operable to be slidably coupled within the slot." The Examiner points to Figure 4 of *Airhart* as allegedly teaching a member having a slot positioned substantially in line with a line of impact of the striker. See Final Office Action, p. 3. To the extent the embodiment shown in Figure 4 of *Airhart* can be interpreted as showing a slot, however, the slot is not "positioned substantially in line with a line of impact of the striker." Moreover, the third cited reference in the alleged combination, *Kostrov*, does not cure this deficiency. For at least this reason, Dependent Claim 43 is patentable over the cited combination of references and should be allowed.

Dependent Claim 48 recites that the "impact isolator comprises a member having a slot and wherein the surface comprises a pin, and wherein slidably coupling the impact isolator to the surface comprises positioning the pin within the slot substantially in line with a line of impact of the striker." Dependent Claim 61 recites a similar element ("wherein the

impact isolator comprises a member having a slot positioned substantially in line with a line of impact of the striker”). For at least the reasons described above, dependent Claims 48 and 61 are also patentable over the *Thompson* and *Airhart* references. *Kostrov* does not cure this deficiency. Applicants respectfully request withdrawal of the claim rejections and favorable action with respect to Claims 43, 48, and 61, and all claims depending therefrom.

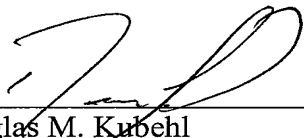
Additionally, dependent Claim 44 recites that “the surface further comprises an anvil disposed between a strike plate and the striker, and wherein the pin is rigidly coupled to the anvil.” The Examiner contends that element 202 of *Airhart* “is rigidly coupled (via #204) to the strike plate 16....” See Final Office Action, p. 3. However, *Airhart* states that a “pad or shock absorber 204 has been mounted on the lower end of the piston 202 between the piston 202 and the surface of the base plate 16.” *Airhart*, Col. 6, ll. 63-65. Even if the base plate 16 is considered an anvil, the alleged pin 202 in *Airhart* is not rigidly coupled to the base plate 16. The pad is “mounted” on the piston 202, not on the base plate 16. Thus the pin is not “rigidly coupled to the anvil” as recited in Claim 44. The Examiner agrees that *Airhart* does not teach wherein the pin is rigidly coupled to an anvil. See Final Office Action, p. 4. The Examiner claims, however, that it would have been obvious to one of ordinary skill in the art to couple the pin to an anvil. But in *Airhart*, if the alleged pin 202 is coupled directly to an anvil the shock absorber 204 must be removed, and this dilutes the purpose and effect of the impact isolators. *Airhart* thus teaches away from rigidly coupling the pin to the anvil. Neither *Thompson* nor *Airhart*, alone or in combination, disclose, teach, or suggest “an anvil disposed between a strike plate and the striker, and wherein the pin is rigidly coupled to the anvil.” Applicants respectfully request reconsideration and allowance of Claim 44. Dependent Claims 49 and 62 also recite that “the surface further comprises an anvil disposed between a strike plate and the striker, and wherein the pin is rigidly coupled to the anvil.” Neither the combination of *Thompson* and *Airhart* (for Claim 49), nor the combination of *Thompson*, *Airhart*, and *Kostrov* (for Claim 62) disclose the claim elements discussed above. Applicant respectfully requests withdrawal of the claim rejections and favorable action with respect to Claims 44, 49, and 62.

CONCLUSION

As a *prima facie* rejection has not been established against Applicants' currently rejected claims, Applicants respectfully request a finding of allowance of Claims 43, 44, 48, 49, 61, 62, and all claims depending therefrom in the Application.

To the extent necessary, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants



Douglas M. Kubehl
Reg. No. 41,915

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Correspondence Address:

Customer Number:

05073